

AO 243 (Rev. 2/95)

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District <u>Eastern District of Missouri</u>
Name of Movant <u>Brandon A. Wyatt</u>	Prisoner No. <u>43814-037</u>	
Place of Confinement <u>Federal Correctional Complex</u>	4:18CV1858 CDP	
<u>P.O. Box 9000 - Low</u>		
<u>Forrest City, AR 72336</u>		
UNITED STATES OF AMERICA		v. <u>Brandon A. Wyatt</u> (name under which convicted)

RECEIVED

OCT 29 2018

BY MAIL

MOTION

1. Name and location of court which entered the judgment of conviction under attack

U.S. District Court
111 S. 10th Street
St Louis, MO 63102

2. Date of judgment of conviction December 14, 2017

3. Length of sentence 61 months

4. Nature of offense involved (all counts)

Felon in possession of a Firearm
Possession with intent to distribute heroin

FILED

OCT 29 2018

U.S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

5. What was your plea? (Check one)

(a) Not guilty ☐
(b) Guilty ☒
(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

N/A

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury ☐
(b) Judge only ☐

7. Did you testify at the trial?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☐ No ☒

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9. If you did appeal, answer the following:

(a) Name of court

(b) Result

(c) Date of result

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court *Eastern District of Missouri*

(2) Nature of proceeding

pretrial motions

(3) Grounds raised

illegal search and seizure

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result *withdrew motion*

(6) Date of result *N/A*

(b) As to any second petition, application or motion give the same information:

(1) Name of court

(2) Name of proceeding

(3) Grounds raised

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(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result

(6) Date of result

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☒(2) Second petition, etc. Yes ☐ No ☐

(d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

I was told by my attorney that I only had 30 days to make a decision on the motion she filed. If we waited for the motion to be answered then our time would have ran out, because At Jeff Sessions was coming down hard saying that they couldn't dismiss anymore 924cc cases. Plus she was going on vacation which put a extra time restraint on my decision so I actually had 2 weeks to decide. So I removed my motion in fear of losing the deal government made to myself when I filed the motion.

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
(b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one:

Supporting FACTS (state *briefly* without citing cases or law):

see attachment (b)

B. Ground two:

Supporting FACTS (state *briefly* without citing cases or law):

see attachment (c)

C. Ground three:

Supporting FACTS (state *briefly* without citing cases or law):

see attachment (e)

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D. Ground four:

Supporting FACTS (state *briefly* without citing cases or law):

see attachment: (f)

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

see attachment: (g)

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing

*Christidy Dillon-Ameling
8000 Maryland Ave. STE. 440
Clayton, MO. 63105
314-721-7725*

(b) At arraignment and plea

Same as above

(c) At trial

N/A

(d) At sentencing

Same as above

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(e) On appeal

N/A

(f) In any post-conviction proceeding

see page 6

(g) On appeal from any adverse ruling in a post-conviction proceeding

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future:

(b) Give date and length of the above sentence:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

10-23-18

Date

Branelm Gill

Signature of Movant

Certification and Personal Oath

I hereby certify that all answers to the above questions and all statement contained herein are true and correct to the best of my knowledge, information, and belief. I understand that any intentional misstatements of material facts contained in this application form may cause adverse action on my petition for executive clemency and may subject me to criminal prosecution.

Respectfully submitted this 23 day of 10, 2018.
(month) (year)


Signature of Petitioner